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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/750,742
Filing Date: December 28, 2000
Appellant(s): COLE ET AL.

R. Scott Weide
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the appeal brief filed 13 November 2006 appealing from the Office action mailed 5 August 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,050,895	Luciano, Jr. et al.	04-2000
5,457,306	Lucero	10-1995

6,113,495 Walker et al. 09-2000

Fey, Marshall, *Slot Machines: A Pictorial History of the First 100 Years*, Liberty Belle Books, 1983, Cover & pages 88, 230 & 232

Buschel, Richard, *Lemons, Cherries and Bell-Fruit-Gum, Royal Bell Books*, 1995, pages 225-6

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 47-48, 50, 51 & 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey (*Slot Machines, A Pictorial History Of The First 100 Years*) in view of Luciano, Jr. et al. (US Patent Number 6,050,895).

Claim 47: Fey teaches a 1904 Big Six slot machine. (Page 88) The Big Six is a game station with a base unit having a first side and an opposing second side, and a first end and a second end. The base unit defining at said first side a player station for use by a first single player generally facing said first side of said base unit. The base unit includes a base portion (legs) and a console extending upwardly from the base portion. The base portion and console are positioned between the first end and the second ends of the base unit. The console includes a first face corresponding to the first side of said base unit. The Big Six has a first and second display (the dials) that are positioned sufficiently

proximate to one another to be viewed at the same time by the first single player of the first station – a player can clearly see both dials. There is a first game controller (the gears controlling the dial on the left) adapted to present first wagering game information corresponding to a first wagering game on the first display in response to a first wager placed by the first player wager placed by the player. There is a second game controller (the gears controlling the dial on the right) adapted to present second wagering game information on the second display corresponding to a second wagering game in response to a second wager placed by the first player. The player may concurrently view said first and second wagering game information presented on said first display and said second display. The first and second game controllers are configured to independently generate the first and second wagering game information such that the first and second wagering games and their outcomes are independent. There is at least one wager-accepting device (the coin heads at the top of each game) at the game station adapted to accept a wager placed by a player of the player station to play either or both wagering games and allocate values to one or more of the first or second game. (The player may play either or both games by placing coins in the appropriate slot.) There is at least one input device (the handle below each dial) permitting the player to provide input to the game station affecting the first and second gaming information presented to the player by the first and second display – the player activates the handle to start the game. The Big Six fails to teach a first and second video display or electronic game controllers. Luciano teaches a first and a second electronically controlled video display (105a & b) at the first face of said console. These displays are controlled by separate electronic controllers (107a &

107b). It is extremely well known to update technology to replace mechanical devices with electronic components because the computerized versions are more flexible. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Big Six in view of Luciano to include video displays electronically controlled by computerized controllers in order to update the technology and increase the flexibility of the game.

Claim 48: Fey teaches the invention substantially as claimed including placing two gaming units back to back. (See the front cover.) This configuration is **EXTREMELY** common in casinos because it allows casinos to make the best use of available floor space. In a back-to-back configuration, the second player corresponds to the first player of claim 47. The third and fourth games correspond to the first and second games respectively.

Claim 50: Luciano's base portion is generally upwardly extending and defines a first vertical surface. Fig 1b shows that the game controllers are mounted on the respective vertical surfaces extending upwardly from the base.

Claim 51: Luciano teaches a housing located between the console (where the screen is located) and the second end. There is a first and second wager-accepting device (106 & 108) in the housing.

Claim 57-60: Fey teaches providing chairs for the convenience of players. (Page 212) It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided chairs for the convenience of players. The height of the cabinet, the location of controllers within the cabinet and the physical location of devices associated

with the cabinet are all a matter of design choice. Such factors do not patentably distinguish over the prior art since they do not solve any stated problem or produce unexpected results.

3. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fey and Luciano as applied to claim 47 above, and further in view of Lucero (US Patent Number 5,457,306).

Claim 52: Fey and Luciano teach the invention substantially as claimed, but fail to teach a keypad mounted between the displays on each face of the console. Lucero teaches a keypad mounted on a slot machine cabinet that allows the player to use a general-purpose charge card to wager on the game. This allows a player who does not have a house card to play without going through the procedure for getting one. (Col 1, 67 – Col 2, 8) This flexibility increases the likelihood of players betting. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fey and Luciano in view of Lucero to mount a keypad in the slot machine cabinet (i.e., on the face of the console) in order to allow a player who does not have a house card to play without going through the procedure for getting one, thus providing flexibility that increases the likelihood of players betting. Regarding the placement of the keypad on the face of the console, placing the keypad between the two displays would facilitate use of the keypad with either or both of the displays. This would increase player convenience. It would have been obvious to one of ordinary skill in the art at the time of the invention to have placed the keypad between the two displays in order to facilitate use of the keypad with either or both of the displays, thus increasing player convenience.

4. Claims 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey and Luciano in view of Walker (US Patent Number 6,113,495).

Claim 53 & 55: Fey and Luciano teach the invention substantially as claimed (see Claim 47) but do not teach a non-game video feed to the first or second display such that the player may see the video feed on one of the same displays presenting the first and second game information. Walker teaches displaying all game information and a non-game video feed (i.e., television programming) on a single display. Video display area (346) displays video feed and slot machine reels. (Col 7, 17-49) Walker teaches that displaying video enhances player retention. (Title) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fey and Luciano in view of Walker to include a non-game video feed to the first or second display such that the player may see the video feed on one of the same displays presenting the first and second game information in order to enhance player retention.

Claim 54: Fey teaches the invention substantially as claimed including placing two gaming units back to back. (See the front cover.) This configuration is **EXTREMELY** common in casinos because it allows casinos to make the best use of available floor space. In a back-to-back configuration, the second player corresponds to the first player of claim 47. The third and fourth games correspond to the first and second games respectively.

Claim 56: Walker teaches a gaming machine with two video screens (362 & 346). The video feed may be displayed on either device. Player interface (370) is used to select the

desired video and must be used to determine which display the video is played on since the video is not played on both displays.

(10) Response to Argument

Examiner's Summary

This case is about putting two prior art slot machines in a prior art slot machine case and the various arrangements the slot machine components may take within the case.

A. Rejection under 35 USC §103(a) over Fey in View of Luciano

Claim 47

Claim 47 is attempting to get a patent on putting two slot machines in one box. As the rejection points out, this has been done for over 100 years. Additionally, Fey's book teaches the Mills Dewey Chicago Triplet (page 230) and the Caille 1905 Mixed Triplet (page 232). These are examples of three separate machines placed in a single cabinet. So not only have practitioners of the art been putting two slot machines in the same cabinet for over a century, they have been putting three slot machines in a single cabinet for at least 102 years. This long history of placing multiple slot machines in the same cabinet would tend to teach one of ordinary skill in the art how to put two slot machines in the same box – you build a bigger box.

In fact, this is exactly what has happened over the years. Examiner has recently discovered a reference that would have been a 102(b) reference for this claim. On pages 225-6 of Bueschel's book, there is a device with ten electronic slot machines in a single cabinet. This clearly anticipates Appellant's claimed invention.

The prior art teaches two, three & ten separate slot machines in a single cabinet. It is Examiner's position that one of ordinary skill in the art at the time of the invention would have

known how to put multiple slot machines in the same cabinet. Building a bigger box is well within the level of ordinary skill. Furthermore, is replete with examples of practitioners doing just that.

Appellant argues that Fey does not disclose the inner workings of the Big Six slot machine. Appellant then (on page 13) argues, “the Big Six appears to disclose two slot machines which are associated with a single housing, but configured for play by two players.”

As pointed out in the rejection above, the Fey reference gives enough details to read upon the claimed invention. The claimed invention does not require details in the inner workings of the Big Six since the claimed invention is directed to the physical arrangement of slot machines in a cabinet. The Big Six clearly shows that the claimed arrangement has been well known in the art for over one hundred years. The Big Six teaches two slot machines that are in the same cabinet and that can be played by a single player.

Appellant states that the claimed invention is a single slot machine offering two games. This is belied by the claim itself. The claims requires:

1st & 2nd electronically controlled video display;

at least one wager accepting device;

a 1st electronic game controller adapted to present a first game;

a 2nd electronic game controller adapted to present a second game;

at least one input device for allowing player input.

Thus we have two screens each controlled by a separate game controller (i.e., CPU); the possibility of two wager-accepting devices, and the possibility of two input devices. This does

not describe a single slot machine offering two games. This describes two slot machines in one box. A single slot machine offering two games would have a single controller.

Appellant argues that it would not have been obvious to combine Luciano with the Big Six since Luciano teaches a slot machine with two separate displays for the same game. Examiner contends that it is obvious to update technology. Instead of mechanical wheels as displays, it is common in this electronic age to use video displays. Instead of controlling the game with an arrangement of gears and springs, it is obvious to use a computer. Luciano is merely a representative of its (numerous) tribe – electronic slot machines with electronic displays.

NOTE

Appellant addresses the dependent claims below without explaining why they are separately patentable. The Appellant merely argues that they have additional limitations. While this (as a matter of law) renders the Brief defective, in the interest of customer service, Examiner will address these arguments. However, it is clear that these claims must stand and fall with claim 47.

Claim 48

Appellant argues that the references do not teach “a single machine which defines player stations at opposing sides.” (Emphasis in original.) Yet Appellant does not claim a single machine. Appellant claims a 3rd and 4th machine – each with its own processor and display. Fey teaches lining slot machines up back-to-back and it is well within the level of ordinary skill to put them in a single box.

Claim 51

Appellant argues that the Luciano does not teach the claimed invention because Luciano's wager accepting devices "are located in housings which are entirely external to the console." Yet Appellant's claim does not specify that the housing is in the console. The argument is not commensurate in scope with the claims.

Claim 57

Appellant argues that the height of the cabinet is not a matter of design choice. Yet surely, a box can be built to any dimension desired. And the desired dimension is purely a matter of choice. If not design choice, then it would certainly be a matter of routine experimentation. No one (except possibly the Appellant) would argue that choosing a box size is beyond the ordinary skill in the art or that it could in any way be considered "inventive".

Claim 58

Claim 58 is concerned with where in the box the CPU is located. Again, this is a matter of design choice. The CPU has to go in the box. Does it really matter where it goes? Behind the monitor; to the left of the monitor; to the right of the monitor; under the monitor? Above the monitor might cause problems because of the heat given off by the monitor. But as long as the CPU is inside the box and not overheated, the location of the CPU does not affect the function of the device. It is purely a matter of design choice.

Claim 59

Again, we are talking about how things are arranged in a box. It is not inventive to arrange the gaming machines symmetrically. One can put the slot machines in the box any way

that one chooses as long as it doesn't interfere with the function of the slot machines. It is well within the level of ordinary skill to arrange slot machines symmetrically in a cabinet.

B. Rejection under 35 USC §103(a) over Fey and Luciano and Further in View of Lucero

Claim 52

Appellant argues that claim 52 should be allowable for the same reasons claim 47 should be allowable. Please see the arguments concerning claim 47 above.

Appellant further argues that there is no reason to combine Lucero (Appellant mistakenly refers to Walker – this is believed to be a typographical error) with Fey & Luciano. Please refer to the rejection above for the motivation to combine the references.



C. Rejection under 35 USC §103(a) over Fey and Luciano and Further in View of Walker

Claim 53

Appellant essentially argues that Fey and Luciano do not teach the invention of claim 47. Please see the arguments concerning claim 47 above.

Appellant argues that the Big Six does not have a wager allocation input – i.e., a way for the player to allocate wagers between the first and second game. Examiner must disagree. Each of the Big Six slot machines has its own coin head. The player allocates wagers between the first and second game by placing money in the respective coin head. Since the Appellant's claimed device may have two wager accepting devices (i.e., a coin slot for each machine), the player may allocate wagers between the first and second game by placing money in the respective coin slots. Thus each coin slot is a wager allocation input device.

Appellant argues, “The prior art does not disclosed the claimed configuration of a game station including a video selector which permits a player to select video content for display on one of the game devices.” Yet this is exactly what Walker teaches. Walker teaches allowing a player to select a non-game video (i.e., television) to display on a slot machine display screen.

Claims 54-56

Appellant states that these claims stand or fall with claim 53.

Summary

As stated above, this case is about putting two or more slot machines in a single cabinet or box and the arrangement of the various bits and pieces of the system within the box. As shown, the prior art has taught placing multiple machines in a single cabinet for over a century. For this and the other reasons outlined above, Examiner asks that the rejection be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Corbett Coburn/
Primary Examiner, Art Unit 3714

Conferees:

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714

/Eugene Kim/

Application/Control Number: 09/750,742
Art Unit: 3714

Page 15

Superviosry Patent Examiner, Art Unit 3711

DETAILED ACTION

1. The attached Supplemental Examiner's Answer removes all mention of canceled claim 49. No other changes have been made to the brief.
2. Evidently, The Board of Patent Appeals and Interferences has construed remarks contained in the paper of 5 September 2007 as being a Supplemental Appeal Brief. This was certainly not the intention of the Examiner. Therefore the PTOL-90 of that date is vacated as per instructions from the Board of Patent Appeals and Interferences.
3. Appellant's Replay Brief has been forwarded to the Board of Patent Appeals and Interferences for their consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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